

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
AT CINCINNATI

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| TINA L. MCQUEEN, Administrator of the Estate of Robert W. McQueen, Jr. | : | CIVIL ACTION NO. 0-1-02-155 |
| | : | |
| Plaintiff, | : | Judge Weber |
| vs. | : | |
| BARGE VESSEL OR 4797, et al. | : | |
| | : | |
| Defendants. | : | |

IN RE: MIDLAND ENTERPRISES, INC.

C-1-02-639

**MOTION TO EXTEND DISCOVERY CUT-OFF DATE
AND JOIN ADDITIONAL PARTIES**

Comes now Defendants, Barge Vessel OR 4797 and The Ohio River Company, Ohio River Company LLC, Midland Enterprises, Inc., Midland Enterprises LLC, (hereinafter "Midland") and move the Court for an extension of time so as to complete discovery in the above-captioned matter and to join new parties as necessary.

On or about September 8, 2003 a Joint Status Report was filed with the Court advising that a Settlement Agreement has been reached with respect to the wrongful death action. It is anticipated that Probate Court approval will be obtained on or about October 30, 2003 and following that approval the settlement money will be paid to Plaintiff and Orders submitted to the Court as to the dismissal of various claims and parties.

As the Court was advised, there still remains a contractual dispute between Midland and

Consolidated Grain and Barge Company with respect to indemnity and insurance coverage regarding this accident.

Consolidated Grain and Barge Company has indicated that CNA/MOAC was the insurer in this action and that Midland Enterprises was named as an additional insured on their policy. A claim has been submitted to counsel for Consolidated Grain and Barge Company who is in turn submitting the claim to the carrier CNA/MOAC. We anticipate a response from CNA/MOAC in the near future as far as insurance coverage.

In the event that CNA/MOAC is not forthcoming with coverage, it is anticipated they will need to be joined as an additional party in the litigation. There will need to be additional formal discovery with respect to the contractual matters and insurance coverage matters.

It is respectfully requested that these Defendants be granted additional time to conduct discovery and join additional parties. Upon final settlement of Plaintiff's action it is also requested a conference be scheduled upon final resolution of Plaintiff's claims to adopt a new Scheduling Order.

Respectfully submitted,

/s/ Donald C. Adams, Jr.
Donald C. Adams, Jr. (#002710)
Rendigs, Fry, Kiely & Dennis, LLP
One West Fourth St., Suite 900
Cincinnati, Ohio 45202-3688
Phone: (513) 381-9361
Counsel for Defendant, Barge Vessel OR
4797 and Midland Enterprises, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent by facsimile and regular U.S. mail, postage prepaid, this 1st day of October, 2003 to:

Steven C. Schletker, Esq.
Schletker, Hornbeck & Moore
415 Garrard Street
Covington, Kentucky 41011

Ronald E. Fox, Esq.
Fox Galvin, LLC
One Memorial Drive, 8th Floor
St. Louis, Missouri 63102

Vincent P. Antaki
Reminger & Reminger, Co., L.P.A.
7 West Seventh St., Suite 1900
Cincinnati, Ohio 45202

Steve Belgrade, Esq.
Belgrade & O'Donnell, PC
Civic Opera Building
20 North Wacker Drive
Chicago, Illinois 60606

Douglas Hart, Esq.
Frost Brown Todd LLP
2200 PNC Center, 201 E. Fifth St.
Cincinnati, Ohio 45202

/s/ Donald C. Adams, Jr.
Donald C. Adams, Jr.

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